**HON'BLE SRI JUSTICE V.V.S.RAO**

**WRIT PETITION No.9 of 2005**

**Dated:23.11.2006**

Between:

Pulusu Rajya Lakshmi.

…Petitioner

and

The District Collator and another.

…Respondents

**HON'BLE SRI JUSTICE V.V.S.RAO**

**WRIT PETITION No.9 of 2005**

**ORDER:**

The petitioner was assigned land admeasuring Acs.4.57 cents in Survey No.599/P situated at Rudrakota Village of Kavali Mandal in Nellore District. The petitioner, since then, is statedly cultivating the land to eke out livelihood. There was some dispute between one Rayani Venkata Ramanaiah and the petitioner, which led the petitioner filing O.S.No.450 of 2004 on the file of the Court of the Principal Junior Civil Judge, Kavali, for injunction. For the purpose of this case, the details are not necessary. Be that as it is, the second respondent issued show cause notice to the petitioner bearing RC.B.No.1779/2004, dated 20.11.2004, calling upon her to show cause as to why assignment should not be cancelled as she obtained the same by misrepresentation. The petitioner submitted explanation on 06.12.2004, *inter alia*, contending that she and her husband, Pulusu Gopi, are divorced and that they are not living together since 1989. She denied the allegation that the assignment was obtained by misrepresentation. After considering the same, the second respondent passed the impugned order dated 22.12.2004 cancelling the assignment and resuming the land to the Government. Aggrieved by the same, the present Writ Petition is filed.

This Court while admitting the Writ Petition on 05.01.2005 ordered stay of all further proceedings pursuant to the impugned order. The respondents have now filed W.V.M.P.No.752 of 2005 seeking to vacate the interim order. In the counter affidavit it is asserted that the petitioner obtained assignment by misrepresenting that she and her husband, Gopi, are not living together, though in fact they are living together, and they are not divorced. Learned Counsel for the petitioner placing reliance on Board Standing Order (BSO) 15(12)(3) and BSO 18 submits that when the assignment is to be cancelled on the ground of misrepresentation, the Mandal Revenue Officer is not competent, though he is competent to cancel the assignment if any of the terms of the assignment are violated. Learned Assistant Government Pleader for Revenue (Assignment), however, disputes this.

This Court in **G.Munilakshmamma v. District Collector**[1] has considered a similar question. After referring to BSO 15(12)(3) and para 18 of BSO 15, this Court laid down as under.

> In the instant case, the patta is sought to be cancelled on the ground of suppression of material facts and misrepresentation of facts. On these grounds, in my view, the Collector has the power to cancel the patta under paragraph 18 of the Board Standing Order 15. The Mandal Revenue Officer has no power to do so. For these reasons, the impugned notice dated September 30, 1990, is quashed as being without jurisdiction. However, this order will not preclude respondents 4 to 11 from applying to the Collector or respondents 1 and 2 from taking action under paragraph 18 of the Board Standing Order 15 and pass appropriate orders, after giving notice to the petitioner, in accordance with law.

Following the same, this Writ Petition is disposed of. The impugned order of the Mandal Revenue Officer is set aside, and the matter is remitted to the Joint Collector, Nellore, with a direction to issue notice to the petitioner, obtain appropriate explanation thereto, and pass appropriate orders within a period of three months from the date of receipt of a copy of this order. No costs.

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(V.V.S.RAO, J)

23.11.2006

Note: Send a copy of this order to the Joint Collector, Nellore.

B/o.

vs

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[1] 1991(1) ALT 617